

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 825 – SB 919

March 27, 2018

SUMMARY OF ORIGINAL BILL: Requires a court to impose an individually-assessed sentence, without imprisonment, for any person convicted of a nonviolent offense if the person is a primary caregiver of a dependent child.

FISCAL IMPACT OF ORIGINAL BILL:

Decrease State Expenditures – Exceeds \$251,100/Incarceration*

SUMMARY OF AMENDMENT (016139): Deletes all language after the enacting clause and rewrites the proposed legislation to make available community-based alternatives to confinement and the benefits that imposing such alternatives would have on the community when the defendant is the primary caregiver to a dependent child a principle that courts must consider when sentencing a defendant.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Other Fiscal Impact – The proposed legislation could decrease state and local incarceration costs; however, the extent and timing of any such decreases cannot be determined because such impacts are dependent upon multiple unknown factors.

Assumptions for the bill as amended:

- Tennessee Code Annotated § 40-35-103 establishes various sentencing principles—e.g., the sentence imposed should be no greater than that deserved for the offense committed; the sentence imposed should be the least severe measure necessary to achieve the purposes for which the sentence is imposed, etc.
- The proposed legislation adds a principle to Tenn. Code Ann. § 40-35-103 that available community-based alternatives to confinement and the benefits that imposing such alternatives may provide to the community should be considered when the offense is nonviolent and the defendant is the primary caregiver of a dependent child.
- The principles under Tenn. Code Ann. § 40-35-103 must guide a court when sentencing a defendant. See *State v. Mynatt*, 684 S.W.2d 103, 105 (Tenn. Ct. Crim. App. 1984). Further, appellate courts reviewing sentences will consider the principles in Tenn. Code

Ann. § 40-35-103. See *State v. Sharp*, 327 S.W.3d 704, 714 (Tenn. Ct. Crim. App. 2010) (citing *State v. Ashby*, 823 S.W.2d 166, 169 (Tenn. 1991)).

- Because these principles must guide judge's sentencing decisions and because appellate courts review sentences in light of these principles, the proposed legislation will result in some defendants receiving lesser sentences of confinement or sentences without confinement that would not occur under current law, which will decrease state and local incarceration costs.
- However, the extent and timing of any such decreases cannot be determined because such impacts are dependent upon multiple unknown factors.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

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